IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

THURSDAY, THE 24TH MAY 2007 / 3RD JYAISHTA 1929

Crl.Rev.Pet.No. 285 of 2000()

CRA.23/1998 of SESSIONS COURT, KOLLAM
CC.127/1996 of JUDL.MAGISTRATE OF FIRST CLASS-II(FOREST OFFENCES), PUNALUR

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REVN. PETITIONER:

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1. DENNISON S/O. ISBRAYL, PANDARAVILA PUTHEN VEEDU, KALLIKKODU VILLAGE, NEYYATTINKARA TALUK.

2. BABY S/O. HARIS, OLIYAKODE, KUNNUMPURATHU VEEDU, MUKUNDARA DESOM, KALLIKKADU VILLAGE.

3. NAGAPPAN, S/O. RAMAN NAIR, KOTTAPALAMOODU, ROADARIKATHU VEEDU, DO.

4. PONNAN NADAR S/O MALLAN NADAR, KOYOYAKODU ROADARIKATHU PUTHEN VEEDU OF DO.

5. BHARGAVAN NADAR S/O. REMALIYAR NADAR, EDAVACHI ROADARIKATHU VEEDU OF DO.

6. KRISHNANKUTTY S/O. MADHAVI, KOKKOTTU ELAYIL, KOTTAKKAKAM MURI, ARIANAD VILLAGE, NEDUMANGAD TALUK.

BY ADV. SRI.K.B.PRADEEP

RESPONDENTS:

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1. ASSISTANT WILD LIFE WARDEN, NEYYAR DAM, NEYYAR SANCTUARY, CR.NO.9/93 (COMPLAINANT IN C.C.127/96 IN THE FILE OF JFMC'S COURT, FOREST OFFENCES, PUNALUR)

2. STATE OF KERALA, REP. BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA.

BY PUBLIC PROSECUTOR SRI AMJAD ALI.

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD ON 24/05/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

K.R. UDAYABHANU, J.

CRL.R.P. NO. 285 of 2000

Dated this the 24th day of May, 2007

ORDER

The revision petitioners are the accused in C.C.No.127/1996 with respect to the offence under section27(1), e, III and IV of the Kerala Florest Act and 27(1) of Wildlife Protection Act 1962. They were found guilty and convicted for the offence under section 27(1),e, III and IV of Kerala Forest Act and released on probation for 2 years on executing bond for Rs.3000/- each with two solvent sureties. A1 was directed to pay a compensation of Rs.5000/- and the rest of the accused Rs.2000/- each. The allegation is that on 6-5-1995, the accused persons trespassed into the Atherumala area situated in Neyyar Wildlife Santuary and cut down forest trees standing there and removed the same and thereby caused a loss of Rs.3000/-to the Government.

2. Counsel for the revision petitioners only sought for acquittal of Ist accused who was the forest contractor for construction in the interior area of the forest.

3. The evidence adduced in the matter consisted of the

testimony of PWs 1 to 6 of whom PWs 1 ,2, 3 and 5 are the alleged occurrence witnesses who are the forest officials. The evidence of the above witnesses is that accused 2 to 6 were found transporting the timber logs.

4. As pointed out by the counsel for the revision petitioners, the evidence against A1 is only the version of the prosecution witnesses that the accused 2 to 6, on questioning, revealed that it is at the instance of A1 that the trees were cut. The witnesses have also stated that A1 was not present at the spot. Construction work was going on near the scene of occurrence. As such, the only evidence against A1/Ist petitioner is the version of the forest officials that A2 to A6 have stated on questioning that it is at the instruction of A1 that the trees were cut. There is no other evidence to connect A1 with the alleged offence. It is also the case of the Ist revision petitioner that there was standing enmity between him and the forest officials as he had moved the court to get payment for the constructions effected by him as the forest officials withheld payment.

5. In the circumstances and in view of the fact that the

only evidence against A1 is the testimony of the forest officials that they were told by A2 to A6 that the trees were cut at the instructions of A1, I find that A1 is entitled to the benefit of doubt.

In the result, the conviction and sentence imposed on A1 is set aside. The rest of the findings of the courts below convicting and sentencing A2 to A6 is affirmed. Hence, A1 stands acquitted.

The Crl.R.P is allowed in part.

K.R.UDAYABHANU,JUDGE.

Kvm/-

K.R.UDAYABHANU, J.

CRL.R.P. 285/2000

ORDER

24/5/2007.